

§ 114.26

the importation voucher from the carnet to be replaced.

[T.D. 70-134, 35 FR 9261, June 13, 1970, as amended by T.D. 82-116, 47 FR 27262, June 24, 1982; T.D. 98-10, 63 FR 4168, Jan. 28, 1998]

§ 114.26 Discharge, nonacceptance, or cancellation of carnets.

(a) *Unconditional discharge.* An A.T.A. or TECRO/AIT carnet shall be discharged unconditionally by the port director when he is satisfied that all merchandise covered thereby is reexported or destroyed. A TIR carnet shall be discharged unconditionally when all merchandise covered thereby has been properly entered, placed in general order, or exported under customs supervision. In all other cases, any discrepancy shall be noted on the appropriate counterfoil, and action shall be taken in accordance with § 10.39 or § 18.6 of this chapter.

(b) *Effect of discharge.* When a port director has discharged a carnet unconditionally by completion of the appropriate counterfoil, no claim may be brought against the guaranteeing association for payment under the carnet unless it can be established that the discharge was obtained improperly or fraudulently or, in the case of an A.T.A. or TECRO/AIT carnet, that there has been a breach of the conditions of temporary importation.

(c) *Nonacceptance or cancellation of TIR carnets.* If a TIR carnet presented to Customs is not accepted, it shall be stamped "Not Taken on Charge" (see § 114.22(c)(2)). If merchandise not required to be transported in bond moving under cover of a TIR carnet is not exported, the carnet shall be stamped "Cancelled."

[T.D. 71-70, 36 FR 4491, Mar. 6, 1971, as amended by T.D. 82-116, 47 FR 27262, June 24, 1982; T.D. 98-10, 63 FR 4168, Jan. 28, 1998]

Subpart D—Miscellaneous

§ 114.31 Restrictions.

(a) *Mail importations.* Carnets shall not be accepted for importations by mail.

(b) *Temporary importations.* Merchandise not entitled to temporary importation under bond shall not be im-

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ported under cover of an A.T.A. or TECRO/AIT carnet.

(c) *Transportation in bond.* Except as provided in § 18.43 of this chapter, merchandise not entitled to transportation in bond shall not be transported under cover of a TIR carnet.

[T.D. 71-70, 36 FR 4491, Mar. 6, 1971, as amended by T.D. 85-180, 50 FR 42517, Oct. 21, 1985; T.D. 98-10, 63 FR 4168, Jan. 28, 1998]

§ 114.32 Samples for taking orders.

A.T.A. or TECRO/AIT carnets may be accepted for unaccompanied samples and samples imported by a natural person resident in the Customs territory of the United States, as well as for samples imported by a natural person resident in the territory of another contracting party to the A.T.A. Convention or TECRO/AIT Agreement.

[T.D. 70-134, 35 FR 9261, June 13, 1970, as amended by T.D. 82-116, 47 FR 27262, June 24, 1982; T.D. 98-10, 63 FR 4168, Jan. 28, 1998]

§ 114.33 Action against carnet user.

In the event of fraud, violation, or abuse of the privileges of a Convention or Agreement, action may be taken against the users of carnets for applicable duties and charges or liquidated damages, as the case may be. Penalties to which such persons have thereby rendered themselves liable may also be imposed.

[T.D. 70-134, 35 FR 9261, June 13, 1970, as amended by T.D. 98-10, 63 FR 4168, Jan. 28, 1998]

§ 114.34 Cancellation of erroneous charges.

(a) *TIR carnet.* When it is determined that liquidated damages assessed or paid for any shortage, irregular delivery, or nondelivery of merchandise covered by a TIR carnet did not in fact accrue, the liquidated damages shall be cancelled by the port director and, if paid, refunded, as provided by § 18.8 of this chapter.

(b) *A.T.A. or TECRO/AIT carnet.* When it is determined that liquidated damages assessed or paid for failure to properly reexport or destroy merchandise temporarily imported under cover of an A.T.A. or TECRO/AIT carnet did

not in fact accrue, the liquidated damages shall be cancelled by the port director and, if paid, refunded as provided by § 10.39 of this chapter.

(c) *Determination dependent upon a construction of law.* When the determination of whether or not the charge was erroneously made depends upon a construction of law, the charge shall not be cancelled without the approval of the Commissioner of Customs, unless there is in force a ruling by the Commissioner of Customs decisive of the issue.

[T.D. 74-227, 39 FR 32023, Sept. 4, 1974, as amended by T.D. 82-116, 47 FR 27262, June 24, 1982; T.D. 98-10, 63 FR 4168, Jan. 28, 1998; T.D. 00-57, 65 FR 53575, Sept. 5, 2000]

PART 115—CARGO CONTAINER AND ROAD VEHICLE CERTIFICATION PURSUANT TO INTERNATIONAL CUSTOMS CONVENTIONS

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AUTHORITY: 5 U.S.C. 301, 19 U.S.C. 66, 1624; E.O. 12445 of October 17, 1983.

SOURCE: T.D. 86-92, 51 FR 16161, May 1, 1986, unless otherwise noted.

Subpart A—General

§ 115.1 Purpose.

This chapter establishes procedures for certifying containers and road vehicles in conformance with the Customs Convention on Containers (1956) (TIAS 6634), the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (1959) (TIAS 6633), the Customs Convention on the International Transport of